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existing bona fide debts, of land not exceeding in value the amount of such debts, for the sole bona fide purpose of preferring the son and wife as creditors to the extent of their bona fide debts and without actual intent to deprive other creditors of their rights under the Bankruptcy Act (U. S. Comp. St. §§ 9585-9656) or Code 1919, § 5184, relating to fraudulent conveyances, or under the common law, and without contemplation of going or being forced into bankruptcy, held not void, not having been made as a matter of law with the intent to "hinder, delay or defraud" creditors within Bankruptcy Act of 1898, § 67e, notwithstanding section 60b.

[Ed. Note.—For other definitions, see Words and Phrases, Second Series, Hinder, Delay, and Defraud.]

3. Fraudulent Conveyances (§ 115 (1)*)—Conveyance Preferring Bona Fide Creditors Valid.—Under the common law and statutes against fraudulent conveyances, an insolvent debtor, known by himself at the time to be insolvent, may make a valid conveyance of a portion or the whole of his assets to a bona fide creditor or creditors in satisfaction or on account of existing indebtedness if that is his sole purpose, and the transfer is for full value, although conveyance is intended to give creditor a preference to the exclusion of others.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 540.]

Appeal from Circuit Court, Pulaski County.

Suit by A. T. Eskridge, trustee in bankruptcy, against McNeal Surratt and others. Decree for complainant, and defendants bring error. Reversed and suit dismissed.

F. W. Morton, of Pulaski, for plaintiff in error.

H. C. Gilmer, of Pulaski, for defendant in error.

JABBOUR BROS. *v.* HARTSOOK.

Sept. 22, 1921.

[108 S. E. 684.]

1. Landlord and Tenant (§ 291 (13)*)—Verdict for Defendant Held Not Supported by Evidence.—Where the lease forbade subletting and provided for termination for arrears in rent, but defendant sublet part of the property and agreed to pay additional rent therefor, undisputed evidence in an action for unlawful detainer that the increased rent had not been paid when notice to quit was served, which terminated the lease, held insufficient to sustain a verdict for defendant.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 112.]

2. Landlord and Tenant (§ 108 (2)*)—Tender of Overdue Rent after Termination of Lease Ineffectual.—Where a lessor gave notice

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

of termination of the lease for nonpayment of rent, a tender of such rent after the time fixed by the notice for delivery of possession was too late.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 112.]

3. Landlord and Tenant (§ 108 (1)*)—Contract Provisions as to Termination of Lease Held Controlling.—Where a lease authorized lessor, if the rent was in arrears and unpaid, to terminate at the expiration of 10 days from time of giving notice, neither the common-law rules as to procedure to terminate a lease for non-payment of rent nor the statute on the subject had any application.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 112.]

Error to Law and Chancery Court of City of Roanoke.

Action by T. E. B. Hartsook against Jabbour Bros. A verdict for defendants was set aside, judgment rendered for plaintiff, and defendants bring error. Affirmed.

A. B. Hunt, of Roanoke, for plaintiffs in error.

Woods, Chitwood, Cox & Rogers, and *Jackson & Henson*, all of Roanoke, for defendant in error.

POWERS et al. v. HOWARD et al.

Sept. 22, 1921.

[108 S. E. 687.]

1. Equity (§ 446*)—Bill of Review Lies as to Error of Law Apparent on the Record.—A bill of review does not lie to review errors in the determination of facts, but if error of law be apparent from an inspection of the record in a cause, and a final decree has been entered, a proper case is *prima facie* presented.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 383.]

2. Equity (§ 446*)—Admission of Deposition of Incompetent Witness Held Apparent on Record.—A bill of review will lie as to error in admitting the deposition of an incompetent witness, where the decree expressly mentioned the deposition and the exception thereto; such matter thus appearing upon the record.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 383.]

3. Witnesses (§ 146*)—Husband of Party to Action Held Incompetent.—In a suit by an administrator to enforce liens against a husband and wife, the husband was incompetent to testify as to whether the wife was liable as surety only, in view of Code 1904, § 3346a, making the consort of a party to such a proceeding an incompetent witness.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 914.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.